

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

TOM DEFOE, a minor by and through his)	
parent and guardian, PHIL DEFOE,)	
)	
Plaintiffs,)	
)	
v.)	No.: 3:06-CV-450
)	(VARLAN/SHIRLEY)
SID SPIVA, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM AND ORDER

This civil action is before the Court on Plaintiffs' Motion to Reconsider Plaintiffs' Motion for Summary Judgment [Doc. 322] and Plaintiffs' Motion for Preliminary Injunction [Doc. 323]. These motions were filed on August 20, 2008, a mere five days after the trial of this matter ended in a mistrial. [See Doc. 321.] The Court held a status conference on October 1, 2008, during which the Court set a new trial date of June 15, 2009 and gave the parties 30 days from the receipt of the trial transcript to file any motions they deemed necessary in light of the evidence presented at trial. [See Doc. 329.] The Court's purpose in doing so was to allow the parties to include transcript citations in their motions.

On November 28, 2008, consistent with the Court's order, plaintiffs filed new motions for a preliminary injunction and summary judgment, which include citations to the trial transcript. [See Docs. 339; 340.] Because plaintiffs' original post-trial motions for a preliminary injunction and for summary judgment did not contain citations to the trial transcript and they raise the same arguments in their new motions, the Court will rely upon

the plaintiffs' motions that contain citations to the record. Accordingly, Plaintiffs' Motion to Reconsider Plaintiffs' Motion for Summary Judgment [Doc. 322] and Plaintiffs' Motion for Preliminary Injunction [Doc. 323] are hereby **DENIED as moot**. The Court will consider plaintiffs' arguments contained within the denied motions in conjunction with its consideration of plaintiffs' pending motions.

IT IS SO ORDERED.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE